

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of VALERIA A. LYLES and DEPARTMENT OF JUSTICE,  
FEDERAL BUREAU OF INVESTIGATION, Washington, DC

*Docket No. 99-2028; Submitted on the Record;  
Issued August 23, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant established that she sustained an injury in the performance of duty on February 11, 1999.

On February 12, 1999 appellant, a 40-year-old custodial worker, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that she sustained an injury to her left hand in the area of her pinky finger while in the performance of duty on February 11, 1999. She explained that, while she was placing skids in a trash dumpster, she hit her hand between the skids and the dumpster. Appellant did not submit any medical documentation with her claim.

By letter dated March 29, 1999, the Office of Workers' Compensation Programs informed appellant that the information submitted was insufficient to establish that she sustained an injury on February 11, 1999. Appellant was further advised that to the extent she received any medical treatment for her alleged injury she should submit the relevant medical records within 30 days. The Office did not receive the requested information.

In a decision dated April 13, 1999, the Office denied appellant's claim on the basis that she failed to establish that she sustained an injury as alleged.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty on February 11, 1999.

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred.<sup>1</sup> The second

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<sup>1</sup> Elaine Pendleton, 40 ECAB 1143 (1989).

component is whether the employment incident caused a personal injury.<sup>2</sup> This latter component generally can be established only by medical evidence.<sup>3</sup> In the instant case, the Office properly denied appellant's claim based on her failure to establish that the February 11, 1999 employment incident caused a personal injury. As previously noted, appellant did not submit any medical evidence in support of her claim nor did she timely respond to the Office's March 12, 1999 request for information.<sup>4</sup> In view of the absence of any medical evidence diagnosing a condition causally related to the February 11, 1999 employment incident, appellant has failed to establish that she sustained an injury in the performance of duty.

The April 13, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.  
August 23, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member

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<sup>2</sup> *Id.*

<sup>3</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>4</sup> Appellant submitted medical evidence on appeal. Inasmuch as the Board's review is limited to the evidence of record that was before the Office at the time of its final decision, the Board cannot consider appellant's newly submitted evidence. 20 C.F.R. § 501.2(c).